

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
IOANNIS LEGANTIS and NIKOLAOS  
PAPAGEORGIOU, on behalf of themselves and  
others similarly situated,

Plaintiffs,

CASE NO.: 1:16-cv-08198-GHW

- v -

AMENDED CONSOLIDATED  
COLLECTIVE AND CLASS  
ACTION ANSWER

ETHOS GALLERY 51 LLC d/b/a ETHOS  
GALLERY 51, 75 HA RESTAURANT LLC d/b/a  
THE BBG, LITTLE WEST RESTAURANT LLC  
d/b/a PATHOS CAFÉ, CHRISTOS  
PANAGIOTOPOULOS and IOANNIS CHATIRIS,  
Jointly and Severally,

Defendants.

-----X  
MEHMED AHMETASEVIC and ALEX  
PETROVSKI, Individually and on Behalf of  
All Others Similarly Situated,

Plaintiffs,

v.

CASE NO.: 1:17-cv-01167-GHW

ETHOS GALLERY 51 LLC d/b/a ETHOS  
GALLERY 51, 75 HA RESTAURANT LLC d/b/a  
THE BBG, LITTLE WEST RESTAURANT LLC  
d/b/a PATHOS CAFÉ, CHRISTOS  
PANAGIOTOPOULOS and IOANNIS CHATIRIS,  
Jointly and Severally,

Defendants.

-----X

Defendants' ETHOS GALLERY 51 LLC d/b/a ETHOS GALLERY 51, 75 HA RESTAURANT LLC d/b/a THE BBG, and LITTLE WEST RESTAURANT LLC d/b/a PATHOS CAFÉ, CHRISTOS PANAGIOTOPOULOS and IOANNIS CHATIRIS (hereinafter referred to as the "Defendants"), by their attorneys, Law Offices of Mitchell S. Segal, P.C., as and for their answer to Plaintiffs' Second Amended Consolidated Collective and Class Action Complaint (the "Complaint"), deny each and allegation contained in the Complaint except as admitted or otherwise qualified herein, and alleges on knowledge with respect to themselves and their own acts and on information and belief as to all other matters that they:

1. Paragraph "1" of the Complaint asserts legal conclusions to which no answer is required. To the extent an answer is required the Defendants deny the allegations contained in Paragraph "1" of the Complaint and deny and wrongful or willful conduct by the Defendants.

2. The Defendants deny the allegations contained in Paragraph "2" of the Complaint other than that some of the Plaintiffs were employed by some of the Defendants.

3. The Defendants deny the allegations contained in Paragraph "3" of the Complaint other than that some of the Plaintiffs were employed by some of the Defendants.

4. The Defendants deny the allegations contained in Paragraph "4" of the Complaint.

5. The Defendants deny the allegations contained in Paragraph "5" of the Complaint.

6. The Defendants deny the allegations contained in Paragraph "6" of the Complaint.

7. The Defendants deny the allegations contained in Paragraph "7" of the Complaint.

8. Paragraph “8” of the Complaint asserts legal conclusions to which no answer is required. To the extent an answer is required the Defendants deny the allegations contained in Paragraph “8” of the Complaint.

### **JURISDICTION & VENUE**

9. Paragraph “9” of the Complaint asserts legal conclusions to which no answer is required. To the extent an answer is required the Defendants aver that Plaintiffs seek the jurisdiction of this Court.

10. Paragraph “10” of the Complaint asserts legal conclusions to which no answer is required. To the extent an answer is required the Defendants deny the allegations contained in Paragraph “10” of the Complaint.

11. Paragraph “11” of the Complaint asserts legal conclusions to which no answer is required. To the extent an answer is required the Defendants aver that Plaintiffs seek the jurisdiction of this Court.

12. Paragraph “12” of the Complaint asserts legal conclusions to which no answer is required. To the extent an answer is required the Defendants deny the allegations contained in Paragraph “12” of the Complaint.

### **THE PARTIES**

13. The Defendants have no knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph “13” of the Complaint.

14. The Defendants have no knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph “14” of the Complaint.

15. The Defendants have no knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph “15” of the Complaint.

16. The Defendants have no knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph “16” of the Complaint.

17. The Defendants have no knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph “17” of the Complaint.

18. The Defendants deny the allegations contained in Paragraph “18” of the Complaint.

19. The Defendants deny the allegations contained in Paragraph “19” of the Complaint.

20. The Defendants have no knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph “20” of the Complaint other than concurring that consent forms are attached.

21. The Defendants admit the allegations contained in Paragraph “21” of the Complaint.

22. The Defendants admit the allegations contained in Paragraph “22” of the Complaint.

23. The Defendants admit the allegations contained in Paragraph “23” of the Complaint.

24. The Defendants acknowledge the information contained in Paragraph “24” of the Complaint.

25. The Defendants deny the allegations contained in Paragraph “25” of the Complaint.

26. The Defendants deny the allegations contained in Paragraph “26” of the Complaint.

27. The Defendants deny the allegations contained in Paragraph “27” of the Complaint.

- 28. The Defendants admit the allegations contained in Paragraph “28” of the Complaint.
- 29. The Defendants acknowledge the information contained in Paragraph “29” of the Complaint.
- 30. The Defendants deny the allegations contained in Paragraph “30” of the Complaint.
- 31. The Defendants deny the allegations contained in Paragraph “31” of the Complaint.
- 32. The Defendants deny the allegations contained in Paragraph “32” of the Complaint.
- 33. The Defendants deny the allegations contained in Paragraph “33” of the Complaint.
- 34. The Defendants deny the allegations contained in Paragraph “34” of the Complaint.
- 35. The Defendants deny the allegations contained in Paragraph “35” of the Complaint.
- 36. The Defendants admit the allegations contained in Paragraph “36” of the Complaint.

**FLSA COLLECTIVE ACTION ALLEGATIONS**

37. Paragraph “37” of the Complaint asserts legal conclusions to which no answer is required. To the extent an answer is required the Defendants deny the allegations contained in Paragraph “37” of the Complaint.

- 38. The Defendants deny the allegations contained in Paragraph “38” of the Complaint.
- 39. The Defendants deny the allegations contained in Paragraph “39” of the Complaint.
- 40. The Defendants deny the allegations contained in Paragraph “40” of the Complaint.

**RULE 23 CLASS ACTION ALLEGATIONS**

41. Paragraph “41” of the Complaint asserts legal conclusions to which no answer is required. To the extent an answer is required the Defendants deny the allegations contained in Paragraph “41” of the Complaint.

42. The Defendants deny the allegations contained in Paragraph “42” of the Complaint.

43. The Defendants deny the allegations contained in Paragraph “43” of the Complaint.

44. The Defendants deny the allegations contained in Paragraph “44” of the Complaint.

45. The Defendants deny the allegations contained in Paragraph “45” of the Complaint.

46. The Defendants have no knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph “46” of the Complaint other than concurring that consent forms are attached.

47. The Defendants deny the allegations contained in Paragraph “47” of the Complaint.

48. The Defendants deny the allegations contained in Paragraph “48” of the Complaint.

**STATEMENT OF FACTS**

49. The Defendants deny the allegations contained in Paragraph “49” of the Complaint.

50. The Defendants deny the allegations contained in Paragraph “50” of the Complaint.

51. The Defendants admit the allegations contained in Paragraph “51” of the Complaint.
52. The Defendants admit the allegations contained in Paragraph “52” of the Complaint.
53. The Defendants admit the allegations contained in Paragraph “53” of the Complaint.
54. The Defendants deny the allegations contained in Paragraph “54” of the Complaint.
55. The Defendants deny the allegations contained in Paragraph “55” of the Complaint.
56. The Defendants deny the allegations contained in Paragraph “56” of the Complaint.
57. The Defendants deny the allegations contained in Paragraph “57” of the Complaint.
58. The Defendants deny the allegations contained in Paragraph “58” of the Complaint.
59. The Defendants deny the allegations contained in Paragraph “59” of the Complaint.
60. The Defendants deny the allegations contained in Paragraph “60” of the Complaint.
61. The Defendants deny the allegations contained in Paragraph “61” of the Complaint.
62. The Defendants deny the allegations contained in Paragraph “62” of the Complaint.
63. The Defendants deny the allegations contained in Paragraph “63” of the Complaint.
64. The Defendants deny the allegations contained in Paragraph “64” of the Complaint.
65. The Defendants deny the allegations contained in Paragraph “65” of the Complaint.

66. The Defendants deny the allegations contained in Paragraph “66” of the Complaint.
67. The Defendants deny the allegations contained in Paragraph “67” of the Complaint.
68. The Defendants deny the allegations contained in Paragraph “68” of the Complaint.
69. The Defendants deny the allegations contained in Paragraph “69” of the Complaint.
70. The Defendants deny the allegations contained in Paragraph “70” of the Complaint.
71. The Defendants deny the allegations contained in Paragraph “71” of the Complaint.
72. The Defendants deny the allegations contained in Paragraph “72” of the Complaint.
73. The Defendants deny the allegations contained in Paragraph “73” of the Complaint.
74. The Defendants deny the allegations contained in Paragraph “74” of the Complaint.
75. The Defendants deny the allegations contained in Paragraph “75” of the Complaint.
76. The Defendants deny the allegations contained in Paragraph “76” of the Complaint.
77. The Defendants deny the allegations contained in Paragraph “77” of the Complaint.
78. The Defendants deny the allegations contained in Paragraph “78” of the Complaint.
79. The Defendants deny the allegations contained in Paragraph “79” of the Complaint.
80. The Defendants deny the allegations contained in Paragraph “80” of the Complaint.



81. The Defendants deny the allegations contained in Paragraph “81” of the Complaint.

82. The Defendants deny the allegations contained in Paragraph “82” of the Complaint.

83. The Defendants deny the allegations contained in Paragraph “83” of the Complaint.

84. The Defendants deny the allegations contained in Paragraph “84” of the Complaint.

85. The Defendants deny the allegations contained in Paragraph “85” of the Complaint.

86. The Defendants deny the allegations contained in Paragraph “86” of the Complaint.

87. The Defendants deny the allegations contained in Paragraph “87” of the Complaint.

88. The Defendants deny the allegations contained in Paragraph “88” of the Complaint.

89. The Defendants deny the allegations contained in Paragraph “89” of the Complaint.

90. The Defendants deny the allegations contained in Paragraph “90” of the Complaint.

91. The Defendants deny the allegations contained in Paragraph “91” of the Complaint.

92. The Defendants deny the allegations contained in Paragraph “92” of the Complaint.

93. The Defendants deny the allegations contained in Paragraph “93” of the Complaint.

94. The Defendants deny the allegations contained in Paragraph “94” of the Complaint.

95. The Defendants deny the allegations contained in Paragraph “95” of the Complaint.
96. The Defendants admit the allegations contained in Paragraph “96” of the Complaint.
97. The Defendants deny the allegations contained in Paragraph “97” of the Complaint.
98. The Defendants deny the allegations contained in Paragraph “98” of the Complaint.
99. The Defendants deny the allegations contained in Paragraph “99” of the Complaint.
100. The Defendants admit the allegations contained in Paragraph “100” of the Complaint.
101. The Defendants deny the allegations contained in Paragraph “101” of the Complaint.
102. The Defendants deny the allegations contained in Paragraph “102” of the Complaint.
103. The Defendants deny the allegations contained in Paragraph “103” of the Complaint.
104. Defendants deny the allegations contained in Paragraph “104” of the Complaint.
105. Defendants deny the allegations contained in Paragraph “105” of the Complaint.
106. Defendants deny the allegations contained in Paragraph “106” of the Complaint.
107. The Defendants deny the allegations contained in Paragraph “107” of the Complaint.
108. The Defendants deny the allegations contained in Paragraph “108” of the Complaint.

109. The Defendants deny the allegations contained in Paragraph “109” of the Complaint.

110. The Defendants deny the allegations contained in Paragraph “110” of the Complaint.

111. The Defendants deny the allegations contained in Paragraph “111” of the Complaint.

112. The Defendants deny the allegations contained in Paragraph “112” of the Complaint.

113. The Defendants deny the allegations contained in Paragraph “113” of the Complaint.

114. The Defendants deny the allegations contained in Paragraph “114” of the Complaint.

115. The Defendants deny the allegations contained in Paragraph “115” of the Complaint.

116. The Defendants deny the allegations contained in Paragraph “116” of the Complaint.

117. The Defendants deny the allegations contained in Paragraph “117” of the Complaint.

118. The Defendants deny the allegations contained in Paragraph “118” of the Complaint.

119. The Defendants deny the allegations contained in Paragraph “119” of the Complaint.

120. The Defendants deny the allegations contained in Paragraph “120” of the Complaint.

121. The Defendants deny the allegations contained in Paragraph “121” of the Complaint.

122. The Defendants deny the allegations contained in Paragraph “122” of the Complaint.

123. The Defendants deny the allegations contained in Paragraph “123” of the Complaint.

124. The Defendants deny the allegations contained in Paragraph “124” of the Complaint.

125. The Defendants deny the allegations contained in Paragraph “125” of the Complaint.

126. The Defendants deny the allegations contained in Paragraph “126” of the Complaint.

127. The Defendants deny the allegations contained in Paragraph “127” of the Complaint.

128. The Defendants deny the allegations contained in Paragraph “128” of the Complaint.

129. The Defendants deny the allegations contained in Paragraph “129” of the Complaint.

130. The Defendants deny the allegations contained in Paragraph “130” of the Complaint.

131. The Defendants deny the allegations contained in Paragraph “131” of the Complaint.

132. The Defendants deny the allegations contained in Paragraph “132” of the Complaint.

133. The Defendants deny the allegations contained in Paragraph “133” of the Complaint.

134. The Defendants deny the allegations contained in Paragraph “134” of the Complaint.

FIRST ALLEGED CAUSE OF ACTION  
Fair Labor Standards Act – Unpaid Minimum Wages

135. Defendants reallege and incorporate by reference their previous answers contained in Paragraphs “1” thru “134”, as if fully set forth herein.

136. The Defendants deny the allegations contained in Paragraph “136” of the Complaint.

137. The Defendants deny the allegations contained in Paragraph “137” of the Complaint.

138. The Defendants admit the allegations contained in Paragraph “138” of the Complaint.

139. The Defendants deny the allegations contained in Paragraph “139” of the Complaint.

140. The Defendants deny the allegations contained in Paragraph “140” of the Complaint.

141. The Defendants deny the allegations contained in Paragraph “141” of the Complaint.

142. The Defendants deny the allegations contained in Paragraph “142” of the Complaint.

143. The Defendants deny the allegations contained in Paragraph “143” of the Complaint.

144. The Defendants deny the allegations contained in Paragraph “144” of the Complaint.

145. The Defendants deny the allegations contained in Paragraph “145” of the Complaint.

146. The Defendants deny the allegations contained in Paragraph “146” of the Complaint.

SECOND ALLEGED CAUSE OF ACTION  
Fair Labor Standards Act – Unpaid Overtime Wages

147. Defendants reallege and incorporate by reference their previous answers contained in Paragraphs “1” thru “146”, as if fully set forth herein.

148. The Defendants deny the allegations contained in Paragraph “148” of the Complaint.

149. The Defendants deny the allegations contained in Paragraph “149” of the Complaint.

150. The Defendants deny the allegations contained in Paragraph “150” of the Complaint.

THIRD ALLEGED CAUSE OF ACTION  
NYLL – Unpaid Minimum Wages

155. Defendants reallege and incorporate by reference their previous answers contained in Paragraphs “1” thru “150”, as if fully set forth herein.

156. The Defendants deny the allegations contained in Paragraph “156” of the Complaint.

157. The Defendants deny the allegations contained in Paragraph “157” of the Complaint.

158. The Defendants admit the allegations contained in Paragraph “158” of the Complaint.

159. The Defendants deny the allegations contained in Paragraph “159” of the Complaint.

160. The Defendants deny the allegations contained in Paragraph “160” of the Complaint.

161. The Defendants deny the allegations contained in Paragraph “161” of the Complaint.

162. The Defendants deny the allegations contained in Paragraph “162” of the Complaint.

163. The Defendants deny the allegations contained in Paragraph “163” of the Complaint.

164. The Defendants deny the allegations contained in Paragraph “164” of the Complaint.

165. The Defendants deny the allegations contained in Paragraph “165” of the Complaint.

FOURTH ALLEGED CAUSE OF ACTION  
NYLL – Unpaid Overtime Wages

166. Defendants reallege and incorporate by reference their previous answers contained in Paragraphs “1” thru “165”, as if fully set forth herein.

167. The Defendants deny the allegations contained in Paragraph “167” of the Complaint.

168. The Defendants deny the allegations contained in Paragraph “168” of the Complaint.

169. The Defendants deny the allegations contained in Paragraph “169” of the Complaint.

170. The Defendants deny the allegations contained in Paragraph “170” of the Complaint.

171. The Defendants deny the allegations contained in Paragraph “171” of the Complaint.

FIFTH ALLEGED CAUSE OF ACTION  
NYLL – Unlawful Withholding of Gratuities

172. Defendants reallege and incorporate by reference their previous answers contained in Paragraphs “1” thru “171”, as if fully set forth herein.

173. The Defendants deny the allegations contained in Paragraph “173” of the Complaint.

174. The Defendants deny the allegations contained in Paragraph “174” of the Complaint.

175. The Defendants deny the allegations contained in Paragraph “175” of the Complaint.

176. The Defendants deny the allegations contained in Paragraph “176” of the Complaint.

177. The Defendants deny the allegations contained in Paragraph “177” of the Complaint.

178. The Defendants deny the allegations contained in Paragraph “178” of the Complaint.

SIXTH ALLEGED CAUSE OF ACTION  
NYLL – Spread Of Hours Pay

179. Defendants reallege and incorporate by reference their previous answers contained in Paragraphs “1” thru “178”, as if fully set forth herein.

180. The Defendants deny the allegations contained in Paragraph “180” of the Complaint.

181. The Defendants deny the allegations contained in Paragraph “181” of the Complaint.

182. The Defendants deny the allegations contained in Paragraph “182” of the Complaint.

183. The Defendants deny the allegations contained in Paragraph “183” of the Complaint.

SEVENTH ALLEGED CAUSE OF ACTION  
NYLL – Unreimbursed Business Expenses

184. Defendants reallege and incorporate by reference their previous answers contained in Paragraphs “1” thru “183”, as if fully set forth herein.

185. The Defendants deny the allegations contained in Paragraph “185” of the Complaint.



186. The Defendants deny the allegations contained in Paragraph “186” of the Complaint.

187. The Defendants deny the allegations contained in Paragraph “187” of the Complaint.

188. The Defendants deny the allegations contained in Paragraph “188” of the Complaint.

189. The Defendants deny the allegations contained in Paragraph “189” of the Complaint.

EIGHTH ALLEGED CAUSE OF ACTION  
NYLL – Notice

190. Defendants reallege and incorporate by reference their previous answers contained in Paragraphs “1” thru “189”, as if fully set forth herein.

191. The Defendants deny the allegations contained in Paragraph “191” of the Complaint.

192. The Defendants deny the allegations contained in Paragraph “192” of the Complaint.

NINTH ALLEGED CAUSE OF ACTION  
NYLL – Wage Statements

193. Defendants reallege and incorporate by reference their previous answers contained in Paragraphs “1” thru “192”, as if fully set forth herein.

194. The Defendants deny the allegations contained in Paragraph “194” of the Complaint.

195. The Defendants deny the allegations contained in Paragraph “195” of the Complaint.

**AS TO PLAINTIFFS' PRAYER FOR RELIEF**

196. Defendants deny all statements and allegations contained therein, including any claim for relief set forth in Plaintiff's "WHEREFORE" clause in the Complaint.

**ADDITIONAL AVERMENTS**

197. Defendants deny all claims and allegations in the Complaint not unequivocally admitted herein.

**AFFIRMATIVE DEFENSES**

198. Without assuming a burden as to any of the following Affirmative Defenses where the law does not impose such a burden, Defendants assert the following Affirmative Defenses.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

199. The Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

200. Plaintiffs have received payment of all sums which may have been due under the Fair Labor Standard Act ("FLSA") and the New York Labor Law ("NYLL") and their respective regulations.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

201. There is no personal jurisdiction over the Defendants in this action.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

202. Plaintiffs are guilty of unclean hands which bar certain of their claims.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

203. Without conceding the burden of proof on such issue, at all times, Defendants acted lawfully and in good faith and in a non-reckless manner and, although they deny the allegations of unlawful conduct as set forth in the Complaint, they had reasonable grounds for believing that the acts or omissions alleged in the Complaint were not violative of the FLSA and the NYLL and their respective regulations.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

204. Defendants acted in good faith in conformity with and in reliance on written administrative regulations, orders, rulings, approvals and/or interpretations of the United States and New York State Department of Labor.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

205. Plaintiffs claims are barred, in whole or in part, by the *de minimis* doctrine.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

206. The Plaintiffs claims are barred to the extent that Plaintiffs have failed to mitigate their damages or otherwise avoid harm.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

207. Plaintiffs are not entitled to equitable relief insofar as they have an adequate remedy at law.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

208. Plaintiffs claims are barred or should be reduced, in whole or in part, by exclusions, exceptions, credits, recoupment or offsets permissible under the FLSA and NYLL.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

209. Assuming, *arguendo*, that Plaintiffs are entitled to any compensation for overtime, any time spent in any preliminary or postliminary activities by Plaintiffs must be excluded from compensable hours.

**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

210. The Complaint is barred, in whole or in part, pursuant, *inter alia*, to the Portal-to- Portal Act and the FLSA.

**AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

211. Neither the Complaint nor any of its causes of action states a claim upon which an award of attorneys' fees may be assessed against Defendants.

**AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

212. Defendants' reserve the right to present evidence, if such evidence exists, demonstrating that

Plaintiffs engaged in misconduct of such severity that the Plaintiffs would have been terminated if Defendants' had known of the misconduct at the time it took place, thereby barring any claim for damages and/or other relief on behalf of the Plaintiffs after that date.

**AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE**

213. To the extent that Plaintiffs claims are barred in whole or in part by the applicable statute of limitations, Defendants assert that defense.

**AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE**

214. Defendants are not Employers covered by the FLSA and/or the NYLL.

**AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE**

215. Plaintiffs claims are barred, in whole or in part, by the doctrine of waiver and/or estoppel.

**AS AND FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE**

216. Plaintiffs cannot establish a willful violation under either the FLSA and/or NYLL.

**AS AND FOR A NINETEENTH AFFIRMATIVE DEFENSE**

217. Plaintiffs have named improper Defendants that are not employers.

**AS AND FOR A TWENTIETH AFFIRMATIVE DEFENSE**

218. The Defendants are not a "covered enterprise" under the FLSA and as such the Plaintiffs have no claims under the FLSA.

**AS AND FOR A TWENTY FIRST AFFIRMATIVE DEFENSE**

219. The Defendants are not and do not operate as a “single enterprise”

**AS AND FOR A TWENTY SECOND AFFIRMATIVE DEFENSE**

220. In addition to the foregoing defenses, Defendants retain the right to amend their Answer to raise additional affirmative and other defenses as those defenses becomes known during this litigation.

**JURY DEMAND**

221. Defendants demand a trial by jury.

WHEREFORE, Defendants respectfully request a judgment,

1. Dismissing the Complaint in its entirety, with prejudice;
2. Denying each and every demand, claim and prayer for relief contained in Plaintiffs

Complaint;

3. Awarding Defendants reasonable attorney fees and costs incurred in defending against this meritless action, and

4. For such other and further relief as to this Court deems just and proper.

Dated: Great Neck, New York  
January 15, 2018

LAW OFFICES OF MITCHELL S. SEGAL, P.C.

By: /s/ Mitchell S. Segal

Mitchell S. Segal, Esq. (MS4878)

*Attorney for Defendants*

1010 Northern Boulevard, Suite 208

Great Neck, New York 11021

Ph (516) 415-0100

Fx (516) 706-6631

[msegal@segallegal.com](mailto:msegal@segallegal.com)

To: Pelton Graham LLC  
111 Broadway, Suite 1503  
New York, New York 10006  
(212) 385-9700

Pardalis & Nohavicka, LLP  
35-10 Broadway, Ste 201  
Astoria, New York 11106  
PH (718)-777-0400